

is not necessary to show that the traverser received the money "by virtue of his employment," nor that he had authority to receive it, but only that it was received in the name or on account of the employer. *Denton v. State*, 77 Md. 528. And see *State v. Denton*, 74 Md. 517.

An indictment which merely charges the lacy of \$102.72 "current money, a more particular description of which said money the jurors aforesaid have not and cannot give," is properly quashed as too vague. *State v. Denton*, 74 Md. 518.

An indictment under this section which does not allege the ownership of the property or money embezzled, is not sufficient. *State v. Tracey*, 73 Md. 447.

An attorney-at-law is an "agent" within the meaning of this section. The jury are judges of the law as well as of the facts in a criminal case; improper statement to the jury by the state's attorney. *Dick v. State*, 107 Md. 12.

For suits for malicious prosecution growing out of an indictment under this section, see *Moneyweight Co. v. McCormick*, 109 Md. 179; *Medcalfe v. Brooklyn Life Co.*, 45 Md. 202.

1910, ch. 477 (p. 87).

113. If an insurance agent, solicitor or broker who acts in negotiating a contract of insurance by an insurance company lawfully doing business in this State, and who embezzles or fraudulently converts to his own use, or, with intent to use or embezzle, takes, secretes, lends, invests or otherwise uses or applies any money or substitute for money received by him as such agent, solicitor or broker, contrary to the instructions or without the consent of the company for or on account of which the same was received by him, he shall be guilty of a misdemeanor, and, on conviction thereof, shall be sentenced to the jail or penitentiary for not more than three years, in the discretion of the court.

1904, art. 27, sec. 104. 1900, ch. 22, sec. 75A.

114. If any executor, administrator, guardian, committee, trustee, receiver or any other fiduciary shall fraudulently and wilfully appropriate to any use and purpose not in the due and lawful execution of his trust, any money or any other thing of value which may come into his hands as such executor, administrator, guardian, committee, trustee, receiver, or in any other fiduciary capacity, or secrete it with a fraudulent intent to appropriate it to such use or purpose, he shall be deemed guilty of embezzlement, and shall be punished upon conviction by imprisonment in the penitentiary for not less than one year nor more than five years.

Cited but not construed in *Dick v. State*, 107 Md. 15, 21, 23.

Ibid. sec. 105. 1888, art. 27, sec. 76. 1862, ch. 114.

115. If any person engaged in transporting coal, iron, lumber or other articles of merchandise, or any property whatever, on any highway, river, railroad or canal, within this State, shall sell, dispose of, give away, use or pledge the same or any part thereof, without the consent of the owner or owners thereof, such person shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished